**IN THE HIGH COURT OF UTTARANCHAL**
**AT NAINITAL**

Writ Petition No. 1324 (SS) of 2005

Deb Prakash,
S/o late Sri Girdhari Lal,
R/o Tara Lodge,
Tehsil Road,
Pauri Garhwal,
District – Pauri Garhwal. **……Petitioner.**

Versus

1. State of Uttaranchal through Secretary, Revenue Department, Uttaranchal, Dehradun.
2. State of U.P. through Secretary, Revenue Department, Lucknow.
3. Commissioner, Garhwal Mandal, Pauri, District – Pauri Garhwal.
4. District Magistrate, Pauri Garhwal.
5. Sub Divisional Magistrate, Lansdown, District – Pauri Garhwal.
6. Director, Office of Nideshalaya, Lekha Evam Hakdari, Uttaranchal, 23, Laxmi Road, Dalanwala, Dehradun.

**……..Respondents**

**Hon'ble M.M. Ghildiyal, J**

Heard Sri Atul Bahuguna, learned counsel for the petitioner, learned Standing Counsel for State of Uttar Pradesh on behalf of respondent no. 2 and learned Standing Counsel for State of Uttaranchal on behalf of respondents no. 1, 3 to 6.

By means of this writ petition, the petitioner has prayed for the following reliefs:

*I. issue a writ, order or direction in the nature of Mandamus directing the respondents to re-fix the*

*pension of the petitioner after counting the past service about 18 years.*

II. *issue a writ, order or direction in the nature of Mandamus directing the respondents to pay arrears of pension with interest forthwith.*

III. *issue any suitable writ, order or direction, which this Hon'ble Court may deem fit and proper in the circumstances of the case.*

IV. *Award the cost of petition to the petitioner.*

Brief facts of the case as narrated in the writ petition are that petitioner was appointed on the post of Patwari vide order dated 12.04.1968 and was posted in Tehsil – Lansdown, District – Pauri Garhwal. Vide order dated 05.03.1974, 110 Patwaris including the petitioner were made permanent on the post of Patwari. On 31.07.1975, respondent no. 5 i.e. Sub Divisional Magistrate, Lansdown, District – Pauri Garhwal called explanation from the petitioner as to why the petitioner was in drunken position while on duty. Petitioner has submitted his reply to the show cause notice within the time prescribed by the respondent no. 5. However, without considering the explanation given by the petitioner, respondent no. 5 submitted his report dated 06.08.1975 to the District Magistrate, Pauri Garhwal recommending termination of the petitioner from service.

On the basis of the report submitted by respondent no. 5 i.e. SDM, Lansdown, District Magistrate, Pauri Garhwal, vide order dated 21.08.1975 terminated the service of the petitioner without showing any reason.

Petitioner preferred revision against the order dated 21.08.1975 before Commissioner, Garhwal Mandal and Commissioner, Garhwal Mandal rejected the revision of the petitioner vide order dated 19.06.1976.

Aggrieved with the order passed by Commissioner, petitioner preferred Claim Petition before Service Tribunal and the same was also rejected by the Tribunal.

On 15.11.1977, Government of U.P. issue order for re-scrutiny of the cases of those employees, who have been retired prior to attaining the age of superannuation or who have been summarily dismissed by the department during emergency.

Petitioner has also preferred representation for re-scrutiny of his case of termination, which was made during the period of emergency and Commissioner, Garhwal Mandal vide order dated 01.05.1986 held that it appears that services of the petitioner were terminated summarily and harsh punishment was given to him which is disproportionate to the charges, levelled against him. Consequently, directed the respondents to reinstate petitioner in service. The order further went to say that petition is not entitled to get any benefit of the service rendered by him earlier prior to his termination.

Learned counsel for the petitioner has submitted that petitioner has now retired from service on 30.08.2004. Petitioner has already got all retirel dues including pension.

Now, petitioner wants that a direction be issued to the respondents to count his past services which were rendered

by him prior to his termination i.e. from 1968 to 1977 and after counting the said service his pension may be revised.

Commissioner, Garhwal Region, while passing the order dated 01.05.1986 in favour of the petitioner for reinstatement of the petitioner on the post of Patwari has specifically stated that he will not get any benefit of his past service rendered by him prior to his termination.

Petitioner cannot claim benefit for getting revised pension by counting his past services rendered by him prior to his termination, till the order dated 01.05.1986 of Commissioner, Garhwal Region is in existence.

Writ petition lacks of merit, as such, is dismissed. Stay application no. 7129 of 2005 is rejected accordingly. No order as costs.

**(M.M. Ghildiyal, J)**

December 15, 2006
SKSharma